



California Fair Political Practices Commission

May 5, 1989

Dave Maxwell, Treasurer
1411 Donohue Drive
San Jose, CA 95131

Re: Our File No. G-89-267

Dear Mr. Maxwell:

Pursuant to your request, a copy of Elections Code Sections 12400-12407 is enclosed. These laws are not part of the Political Reform Act, therefore, the Commission cannot assist you concerning their interpretation. We suggest that you contact the Attorney General's office if you have questions about permitted uses of surplus funds.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

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Attach additional information on appropriately labeled continuation sheets.

VIII YOU MUST SPECIFY WHAT DISPOSITION WILL BE MADE OF SURPLUS FUNDS IN THE EVENT OF TERMINATION.

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A committee must specify what use will be made of any surplus funds. Elections Code Section 12400, et seq. prohibits personal use of campaign funds and specifies permissible uses of surplus campaign funds. ~~Elections Code Section 29795 specifies permissible uses of funds received by state ballot measure committees.~~ The Fair Political Practices Commission has no authority to interpret the Elections Code. Contact the enforcement official for your jurisdiction if you have any questions.

VERIFICATION:

The statement must be signed and verified by the committee treasurer. If this committee is controlled by a candidate, officeholder or state ballot measure proponent, the candidate, officeholder or proponent must also sign and verify the statement. If a ballot measure committee is controlled by two or three candidates or officeholders, each candidate must sign the Statement of Organization. If more than three candidates or officeholders control a ballot measure committee, one of the candidates or officeholders may sign the Statement of Organization on behalf of all controlling candidates or officeholders.

4-21-89

F.P.P.C. - BEFORE WE CAN ANSWER QUESTION VIII,

WE NEED TO KNOW THE PERMISSABLE AND PROHIBITED USES OF SURPLUS CAMPAIGN FUNDS.

THUS, PLEASE SEND ME A COPY OF ELECTION CODE SECTION # 12400 & ANY OTHER PERTINENT MATERIAL.

THANKS,

DAVE MAXWELL, TREAS.

1411 DONOHUE DR.

SAN JOSE, CA 95131

See attached per your request.
5-1-89 YOU ONLY SENT ME THE ONE PAGE... CAN YOU SEND ME ALL OF CHAPTER 5?

more than two national committee members from California, chairman of the state central committee, executive committee of the state central committee, or executive committee of the county central committee of the party whose name is being used in the county in which the solicitation is to be made. If the county central committee of the party in that county does not have an executive committee, the written consent of the chairman and secretary of that county central committee is sufficient.

All persons soliciting funds in accordance with this section shall be furnished with adequate credentials bearing the name of the solicitor and a copy of the written consent which bears the signature of the person authorizing the solicitation.

(Amended by Stats. 1976, c. 224, §8.)

12302. Authorization to use candidate or committee name.

It is unlawful for any person who solicits funds for the purpose of supporting or promoting any candidates or committees to include in any part of its name the name of that candidate or committee unless that person shall have previously obtained the authorization of the candidate or committee or the candidate's or committee's designated agent to use the candidate's or committee's name in the name of that person.

Authorization by a candidate or committee shall not be construed as rendering the person soliciting funds a controlled committee as defined by Section 82016 of the Government Code.

(Added by Stats. 1979, c. 872, §2.)

12303. Notice of nonauthorization to be included in fundraising communication.

Any person who solicits or receives contributions on behalf of any candidate or committee for the purported and exclusive use of that committee or the candidate's election campaign and who is not authorized by the candidate or committee or the candidate's or committee's designated agent to do so, shall include a notice in any fundraising communication, whether through any broadcasting station, newspaper, magazine, printed literature, direct mailing, or any other type of general public advertising, or through telephone or individual oral fundraising appeal, clearly and conspicuously stating that the person is not authorized by the candidate or committee and that the candidate or committee is not responsible for the actions of that person.

(Added by Stats. 1979, c. 872, §3.)

Chapter 5. Limitations on Uses of Campaign Funds

12400. Actual or resulting trust.

The Legislature finds and declares that the political process is strengthened and public confidence in elected officials will be enhanced by limiting the uses of campaign contributions. However, the making or receipt of a campaign contribution does not create an actual or resulting trust or a trust-like relationship limiting the uses of campaign contributions.

The Legislature further finds that any restrictions on the use of political funds must be carefully drawn and narrowly construed to prevent any chilling effect on the political process and the freedom of elected officials to carry out legitimate governmental duties.

(Added by Stats. 1981, c. 956, §1.)

12401. Campaign funds shall not be used for personal use.

Notwithstanding any other provision of law, campaign funds, including funds for political action committees, shall not be used for personal use. A payment from campaign funds is for personal use if the payment creates a substantial personal benefit and does not have more than a negligible political, legislative, or